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ABSTRACT

Maintaining safe schools requires the forging of partnerships to share information between schools and youth-serving agencies, including the police department, court system, youth parole and probation offices, and child protective services. All public elementary and secondary schools are subject to the Family Educational Rights and Privacy Act (FERPA), a federal law that governs the disclosure of information from education records. This guide is for educators, law enforcement personnel, juvenile justice professionals, and community leaders who are interested in developing interagency information-sharing agreements to fully involve the schools in a holistic approach to intervention and delinquency prevention. Educators and other youth-serving professionals will find clear directions on how to share information while complying with the FERPA. The guide provides an overview of FERPA, discusses the act's restrictions on information sharing and exceptions to those restrictions, explains recordkeeping requirements under the act, and summarizes recent changes to the regulations for implementing FERPA. The guide also explores the role of multiagency agreements in facilitating information sharing and looks at one effective program that relies on such agreements. Sources of technical assistance at the U.S. Department of Education and the U.S. Department of Justice are included. Appendices contain the FERPA regulations and sample documents. (LMI)

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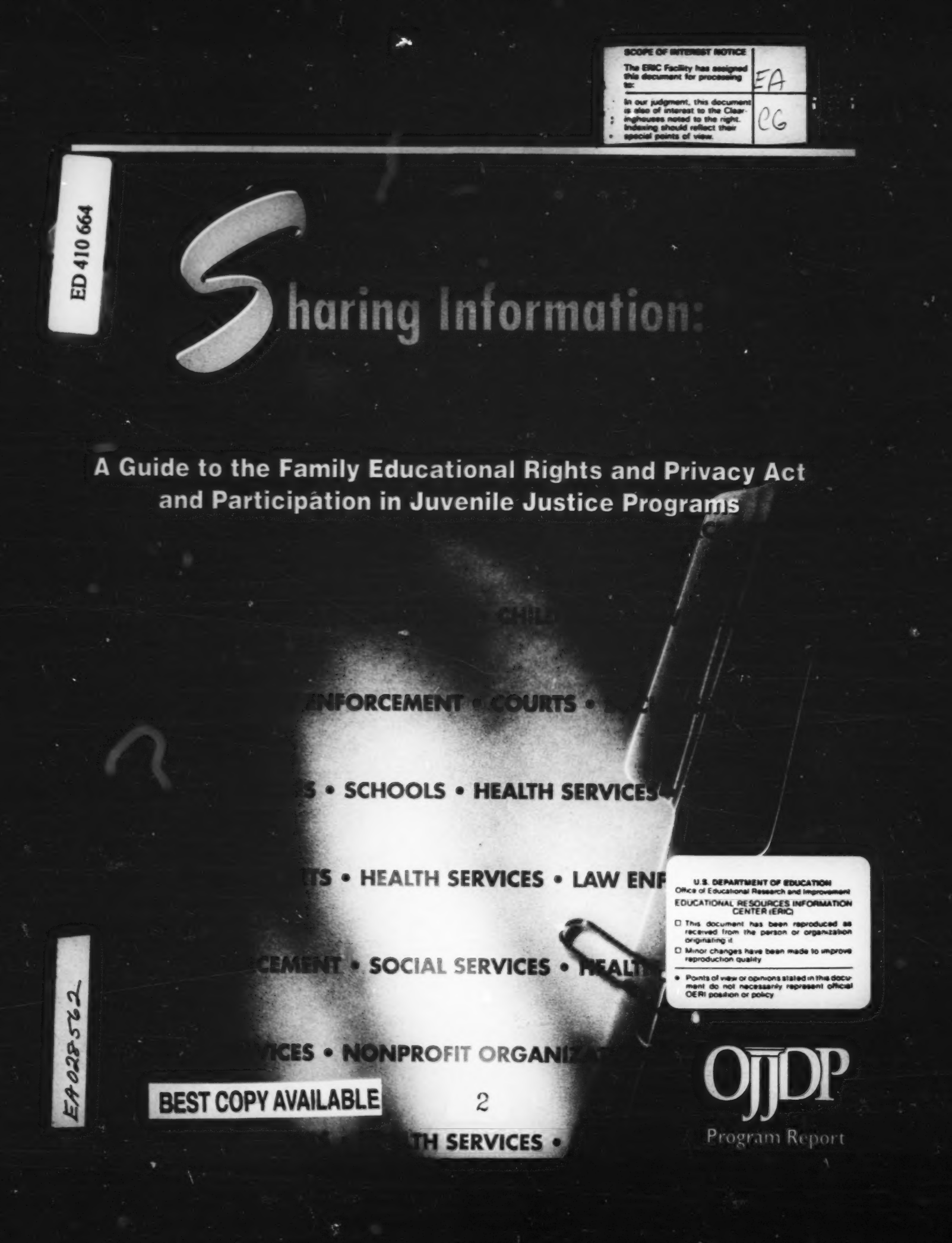
# Sharing Information:

## A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs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# Sharing Information:

## A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs

Program Report

**U.S. Department of Justice**
Office of Juvenile Justice and Delinquency Prevention

**U.S. Department of Education**
Family Policy Compliance Office

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June 1997

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The Office of Juvenile Justice and Delinquency Prevention is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime.

The Family Policy Compliance Office is part of the Office of Management within the Department of Education. The Family Policy Compliance Office administers the Family Educational Rights and Privacy Act (FERPA).

# Foreword

The growth of serious and violent delinquency in our Nation and its impact on our schools concerns us all. Every day, many children face fighting and other intimidating behavior at school or on the way to and from school. In addition to the cost to children and their families, school violence may have broad and long lasting effects on society because it disrupts education and diminishes students' sense of security in their learning environment. Clearly then, providing safe schools is one of our most important responsibilities. Children must feel safe and nurtured in school, and they must be challenged to learn rather than challenged to survive.

Maintaining safe schools requires the forging of partnerships to share information between schools and youth-serving agencies, including the police department, court system, youth parole and probation offices, and child protective services. These partnerships rely on effective information sharing among all the agencies responsible for delivering services to children. Educators who see the first warning signs of delinquency or who have critical information about juveniles involved in the juvenile justice system can, by sharing information with other justice and youth-serving agencies, help develop effective intervention strategies. At the other end of the spectrum, when the juvenile justice system is about to send an alleged or adjudicated juvenile offender back into the regular school system, justice officials should notify the school of the timing and circumstances of the student's return so the school can take steps to provide needed support services to help the student succeed. In addition, there are other circumstances in which it is both appropriate and necessary to share information to ensure public safety and the welfare of our children.

This guide is for educators, law enforcement personnel, juvenile justice professionals, and community leaders who are interested in developing interagency information sharing agreements to fully involve the schools in a holistic approach to intervention and delinquency prevention. Educators and other youth-serving professionals will find clear directions here on how to share information while complying with the Family Educational Rights and Privacy Act.

It is our hope that this guide will be useful as communities and schools across America work to provide safe havens for learning for our children.

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# Introduction

In an era of scarce resources and alarming juvenile violence, all agencies serving children and families need to maximize their ability to share information so they can coordinate their services to make them more effective. When State and local agencies begin to implement comprehensive strategies for addressing juvenile delinquency, the cooperation of schools in sharing information about students is critical to the success of these efforts. Educators hold a unique position of influence in the children's lives. Consequently, the Nation's schools can be invaluable partners with the juvenile justice and other systems—including the social service, health, and mental health systems—as they seek to serve the needs of those students at high risk for delinquency. No student's needs should be neglected—and no school community should go unprotected—because of confusion over the extent of the right to privacy.

Educators typically approach participation in agency information sharing programs with caution because they have legitimate concerns about the privacy of students and their families. To a large extent, their caution reflects an awareness of legal restrictions on information sharing. All public elementary and secondary schools are subject to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), a Federal law that governs the disclosure of information from education records. Some States have similar privacy and confidentiality laws that also address the issue of sharing information from education records.

This guide provides basic information on FERPA for elementary and secondary education professionals and those involved in delivery of services to juveniles, including those students involved in the juvenile justice system. The information in the guide makes it clear that FERPA need not be an impediment to full participation by educators in their community's efforts to serve the needs of juveniles. Educators and those providing services to our children share a common ultimate goal: to see all children grow and thrive in safe homes, schools, and communities and become healthy, productive members of society.

The guide provides an overview of FERPA, discusses the Act's restrictions on information sharing and exceptions to those restrictions, explains recordkeeping requirements under the Act, and summarizes recent changes to the regulations for implementing FERPA. Examples are provided to illustrate some key points. The guide also explores the role of multiagency agreements in facilitating information sharing and looks at one effective program that relies on such agreements. Sources of technical assistance are given in the guide, including a brief summary of the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) information sharing initiatives. For convenient reference, the FERPA regulations are included in appendix A. In addition, four appendixes (B through E) present information for schools, other youth-serving agencies and organizations, and the juvenile justice and related systems to use in developing a juvenile justice network that will enable them to work together to address the problems of youth who are delinquent or at risk of becoming delinquent.

Although portions of the guide may also be of interest to educators at colleges and universities, the issues specific to that audience are beyond the scope of this work. Educators of postsecondary institutions should examine the text and regulations of FERPA independently and seek additional sources for guidance.

# Information Sharing Between Schools and Other Youth-Serving Agencies Under the Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA) is a complex Federal law that protects the privacy interests of parents and students with regard to education records. It affects every public elementary and secondary school and virtually every postsecondary institution in the country. First enacted in 1974, FERPA has been amended by Congress seven times, most recently through the Improving America's Schools Act of 1994 (IASA).

FERPA defines the term "education records" broadly to include all records, files, documents, and other materials, such as films, tapes, or photographs, containing information directly related to a student that an education agency or institution or a person acting for the agency or institution maintains. For example, education records include information that schools maintain on students in report cards, surveys and assessments, health unit records, special education records, and correspondence between the school and other entities regarding students. Education records also include information that a school maintains about parents.

**Examples of Valid Disclosures Under FERPA—Jane**

Jane, 10, has been reported to the child protective services agency as a possible sex abuse victim. The agency contacts Jane's teachers to determine if Jane has exhibited any unusual behavior. FERPA permits Jane's teachers to share information about their observations regarding Jane. Oral information based on personal observation or knowledge is not subject to the provisions of FERPA.

Generally, FERPA gives parents the right to inspect and review their children's education records, request amendment of the records, and have some control over the disclosure of information from the records. When a student turns 18 or enters college, FERPA classifies him or her as an "eligible student" and transfers the rights under the Act from the parent to the student. FERPA requires school districts to notify parents and eligible students annually of their rights under the Act. (See appendix B for a sample notification document.)

The recent IASA amendments to FERPA enhanced the penalty for improperly disclosing information from education records. FERPA now prohibits a school from providing information for at least 5 years to a third party who received information and redisclosed it without the required consent.

**Examples of Valid Disclosures Under FERPA—Ryan (Part I)**

Ryan, 13, is adjudicated delinquent for breaking into a warehouse. As this is his first offense, the court returns Ryan to school and shares information about the offense with the school. FERPA does not govern the decision by local juvenile justice system officials to divulge this information to the schools. Schools may receive and use information from law enforcement, courts, and other justice system components in order to provide services to Ryan and to maintain a safe and effective learning environment. However, once the information on Ryan is received and maintained by the school, it is subject to FERPA and exceptions.

## The Prior Consent Requirement for Disclosure of Education Records

For elementary or secondary school students, FERPA restricts the release of their school records or information from their records that could identify the student ("personally identifiable information"). Before releasing such records or information to a party outside the school system, the school must obtain the consent of the student's parents unless the student is 18 or over, in which case only the student can consent to the release, or unless the release falls under one of the exceptions to the consent requirement.

Educators are free to share information with other agencies or individuals concerning students based on their personal knowledge or observation, provided the information does not rely on the contents of an education record. Oral referrals to other agencies based on personal observations are not subject to the provisions of FERPA. Of course, the process of interagency information sharing is a dynamic process, and educators should take care not to circumvent the requirements of FERPA by making a referral that is predicated on knowledge obtained from education records.

## Exceptions to the Prior Consent Requirement

Statutory exceptions applicable to the prior consent requirement are set forth in detail under § 99.31 of the FERPA regulations. As a general rule, educators may disclose information without prior consent if they can answer yes to any of the following questions.

Is the disclosure being made—

- To other school officials, including teachers, within the school or school district who have been determined to have legitimate educational interests? (A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.) (See § 99.31(a)(1) of the FERPA regulations.)
- To officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll? (See § 99.34 of the FERPA regulations.)
- To authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, or State and local education authorities? This exception applies only under certain conditions. Typically, disclosures under this provision must be in connection with an audit or evaluation of a Federal- or State-supported education program or in compliance with Federal legal requirements related to those programs. (See § 99.35 of the FERPA regulations.)
- In connection with the student's application for or receipt of financial aid? (See § 99.31(a)(4) of the FERPA regulations.)
- To State and local officials or authorities in compliance with a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are being released? (This condition is discussed further in "Disclosures Under the Juvenile Justice System Exception," p. 8.) (See § 99.31(a)(5) and § 99.38 of the FERPA regulations.)
- To organizations conducting studies for, or on behalf of, education agencies or institutions, in order to develop tests, administer student aid, or improve instruction? (See § 99.31(a)(6) of the FERPA regulations.)
- To accrediting organizations to carry out their accrediting functions? (See § 99.31(a)(7) of the FERPA regulations.)
- To parents of a dependent student, as defined by the Internal Revenue Code, even if the student is an "eligible student" under FERPA? (See § 99.31 (a)(8) of the FERPA regulations.)
- To comply with a judicial order or lawfully issued subpoena? The regulations direct the school to make a reasonable effort to notify the parent or eligible student of the court order or subpoena in advance of compliance. (See appendix C for sample court orders.) However, the IASA amend-



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ments removed this notification requirement for instances in which a court or other agency issues either a Federal Grand Jury subpoena or a subpoena for a law enforcement purpose and the court has ordered the school not to disclose the existence of the subpoena. (See § 99.31(a)(9) of the FERPA regulations.)

- In connection with a health or safety emergency? (See § 99.31(a)(10) of the FERPA regulations. See also "Disclosures Under the Health or Safety Emergency Exception," p. 7.)
- To teachers and school officials in other schools who have legitimate educational interests in the behavior of the student when the information concerns disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community? (See § 99.36 of the FERPA regulations.)
- To provide information that the school district has designated as "directory information"? (See § 99.37 of the FERPA regulations. See also "Disclosures Under the Directory Information Exception," p. 7).
- To provide information from the school's law enforcement unit records? (See § 99.3 definition of "education records" and § 99.8 of the FERPA regulations. See also "Disclosures Under the Law Enforcement Unit Records Exception," p. 5).

Four of the exceptions specified above require additional explanation:

- Disclosures Under the Law Enforcement Unit Records Exception.
- Disclosures Under the Directory Information Exception.
- Disclosures Under the Health or Safety Emergency Exception.
- Disclosures Under the Juvenile Justice System Exception.

Each of these types of disclosures is discussed in the sections that follow.

## Disclosures Under the Law Enforcement Unit Records Exception

Under FERPA, schools may disclose information from "law enforcement unit records" to anyone—Federal, State, or local law enforcement authorities, social service agencies, or even the media—without the consent of the parent or eligible student. FERPA specifically exempts from the definition of "education records"—and thereby from the restrictions of FERPA—records that a law enforcement unit of a school or school district creates and maintains for a law enforcement purpose. In some instances, State open records laws may require that schools provide public access to law enforcement unit records because FERPA does not protect these records. (Educators may wish to check with their State attorney general's office on this point.)

**Examples of Valid Disclosures Under FERPA—Rodney, Jeff, and Mark (Part I)**

A School Resource Officer (SRO) who is a member of the school's law enforcement unit receives a report from the local police department that Rodney, Jeff, and Mark are active members of the Five Crew gang. The SRO creates a file and places the report in it. The SRO also informs the principal, who makes appropriate notations in each student's education record. Several weeks later, a detective from a neighboring jurisdiction contacts the SRO. The detective is investigating a rideby shooting involving gangs at a basketball game between the two schools. FERPA does not restrict the SRO from sharing information about the Five Crew members from the law enforcement unit record with the investigator.

A "law enforcement unit" is an individual, office, department, division, or other component of a school or school district—such as a unit of commissioned police officers or noncommissioned security guards—that is officially authorized or designated by the school district to (1) enforce any Federal, State, or local law, or (2) maintain the physical security and safety of schools in the district. Educators may employ commissioned police officers who are responsible for enforcing laws or officially designate

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an individual in the school district to carry out the responsibilities of a law enforcement unit.

Additionally, some school districts make special arrangements with local law enforcement authorities for the purpose of maintaining safe and drug-free schools. Although the Departments of Justice and Education encourage schools without separate law enforcement units to develop working relationships with local police authorities, compliance with FERPA calls for certain precautions. School districts should use a contract or memorandum of understanding to officially designate a local police officer(s) as the district's law enforcement unit. Without this designation, FERPA would prohibit the school from disclosing information from a student's education records, unless one of the other exceptions to FERPA applies, such as the health or safety exception. Regardless of whether the school district has designated one individual or a group of commissioned officers as the law enforcement unit, the district should include this designation in the annual notification of rights to parents and students under the section concerning the disclosure of information to school officials with a legitimate educational interest in the records. This is so that schools may freely share information about students with their law enforcement units and so that parents and students will know that information from education records may be disclosed for the purpose of maintaining safe schools.

Because this FERPA exemption applies specifically to records that a law enforcement unit creates and maintains for a law enforcement purpose, FERPA would protect records that the law enforcement unit created for a purpose other than law enforcement—even when they are in the possession of the law enforcement unit. On the other hand, even if the law enforcement unit shares with another component of the school a copy of a record the unit created for a law enforcement purpose, FERPA would not restrict dissemination of the records maintained by the law enforcement unit.

Law enforcement unit records should not be confused with the records of a school's disciplinary actions or proceedings, which are education records. Although schools may disclose information from their law enforcement unit to other school officials (including educators in other schools), the *copy* that the law enforcement unit gives to a principal or other school official becomes an education record once that official receives and maintains it. As such, the information is subject to FERPA and the principal or other official cannot disclose it to a third party without prior parental consent, unless one of the other exceptions to FERPA applies. However, the original document that the law enforcement unit created and maintained, which relates to activity that formed the basis for subsequent disciplinary actions or proceedings, does not become an education record merely because the unit shared it with another component of the school or because a copy is placed in the student's education file. It is, therefore, disclosable like other law enforcement unit records.

**Examples of Valid Disclosures Under FERPA—Donna and Linda**

Donna, 13, and Linda, 14, get into an argument and begin shoving each other. A school resource officer (SRO), who is a member of the school's law enforcement unit, separates them and makes an incident report. Several days later, the SRO again breaks up a fight between the two girls and makes another incident report. Copies of the two incident reports are forwarded from the law enforcement unit to the Assistant Principal who is responsible for school discipline. Because this is the second time the girls have been involved in a fight, they are suspended for a day. The incident reports that provided the basis of the disciplinary hearing and the disposition are entered into each girl's education record. Several days later, Donna and Linda see each other at a neighborhood record store and begin fighting again. The police are called and take the girls into custody. An officer contacts the school SRO and learns that Donna and Linda have gotten into fights at school. While the record of the school discipline hearing is an education record that is subject to FERPA constraints, the incident reports created and maintained by the SRO are disclosable under the law enforcement unit record exception.

It should be noted that nothing in FERPA prevents a school official from disclosing to local law enforce-

ment authorities information that is based on that official's personal knowledge or observation and not from an education record. As long as the reporting of the information does not rely on information contained in education records, FERPA does not restrict the reporting of crime to local law enforcement.

For instance, if a teacher were to observe that a student is involved in a gang or in illegal activities, FERPA would not prevent that teacher from reporting the student to law enforcement authorities. Should the authorities decide to investigate the teacher's observations and need information from the student's education record, they should obtain a subpoena unless circumstances trigger one of the other exceptions under FERPA.

## Disclosures Under the Directory Information Exception

A school can disclose "directory information" from the education record without prior parental consent after giving notice of its intention to do so. "Directory information" is information in a student's education records that is not generally considered harmful, and its release is not considered an invasion of the student's privacy. A critical distinction exists between directory information and all other information present in school files. School districts can choose how much directory information from education records they will disclose. Directory information includes, but is not limited to, the following data about the student:

- Name.
- Address and telephone.
- Date and place of birth.
- Major field of study.
- Official activities.
- Dates of attendance ("from and to" dates of enrollment).
- Height and weight for sports.
- Degrees and honors received.
- Most recent previous education institution.
- Photograph.

The Department of Education considers these items to be directory information. In most instances, disclosure is helpful to both the institution and the student. However, school districts must establish a policy and give notice as to the specific types of directory information they intend to disclose. Parents can, however, retain the right to consent to the disclosure of directory information. Parents who wish to retain this right must so advise the school. (See § 99.3 and 99.37 of the FERPA regulations.)

With the passage of the juvenile justice system exception, discussed on p. 8, education records, including directory information, may be shared with juvenile justice system agencies, prior to adjudication of the student, to the extent that State law allows.

## Disclosures Under the Health or Safety Emergency Exception

The health or safety emergency provision is a commonsense acknowledgment that there may be situations when the *immediate* need for information to avert or diffuse certain unusual conditions or disruptions requires the release of information. Educators determine what constitutes an "emergency," but FERPA requires that they construe the term strictly. For example, on-campus disruptions that constitute criminal acts, particularly those involving weapons and drugs, fall within the scope of the term, as do crisis situations off campus that affect school campuses or the public health or safety. When a health or safety emergency exists, schools may share relevant information about students involved in the emergency with appropriate parties—that is, those whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. (See discussion of recordation requirements on p. 11.)

**Examples of Valid Disclosures Under FERPA—Rodney, Jeff, and Mark (Part II)**

The principal receives information from a student that members of Five Crew are planning an assault at the other high school in retaliation for the previous shooting. Under the emergency exception, the principal can provide information from each student's education record to the appropriate school officials and law enforcement agencies.

## Disclosures Under the State Law Juvenile Justice System Exception

FERPA allows schools to play a vital role in a community's efforts to identify children who are at risk of delinquency and provide services prior to a child's becoming involved in the juvenile justice system. The 1994 IASA amendments modified FERPA to permit educators to share information with juvenile justice system agency officials on children who are at risk of involvement or have become involved in the juvenile justice system, prior to adjudication, to the extent State statute allows. System officials to whom the information is disclosed must certify in writing that they will not disclose personally identifiable information to any third party except as provided by State law. Consequently, schools in States with such statutes may disclose information about students to other State and local agencies as part of an effort to serve the student whose records are being released, prior to adjudication. As more and more States establish information sharing programs to serve students through cooperation with the juvenile justice system, the emphasis on neighborhood school participation in interagency information sharing agreements will increase. FERPA need not be a barrier to this progress toward proactive information sharing networks.

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**Examples of Valid Disclosures Under FERPA—Mary**

Mary, 13, is arrested for shoplifting. This is her first offense, and the police department's juvenile division contacts the school for information about Mary's school attendance and academic performance. The school can release school attendance, academic performance, or other information from Mary's education record with the consent of one of her parents. If State law authorizes the disclosure to juvenile justice system agencies, the school can share information from Mary's education record without parental consent. Absent such a State law, the school should ask the police department to obtain a subpoena for the records.

The juvenile justice system exception to FERPA's prior written consent provision allows the disclosure of education records, or information from education records, without consent of the parent or eligible student, if four conditions (see § 99.38 of the FERPA regulations) are met:

(1) The disclosure or reporting of the records must be to a State or local juvenile justice system agency.

(2) The disclosure must be based on a State statute authorizing the disclosure.

(3) If the State law was passed after November 19, 1974 (the date FERPA was enacted), the disclosure must relate to the juvenile system's ability to serve, prior to adjudication, the student whose records are being released.

(4) The State or local officials must certify, in writing, that the institution or individual receiving the personally identifiable information has agreed not to disclose it to a third party, other than another juvenile justice system agency.

Adjudication is the process of determining whether a juvenile has committed an act which, if committed by an adult, would be considered criminal conduct. The process is triggered by a "petition" alleging an act of delinquency. The petition may result in a finding or determination that the juvenile committed

the alleged act of delinquency. For the purposes of FERPA, once this finding or determination is made and the court has made a disposition of the case, the juvenile would be considered an "adjudicated delinquent." The disposition of a delinquency case is the equivalent of a "sentence" in a criminal case.

The fact that a juvenile has been adjudicated delinquent is not, in and of itself, determinative of whether the State law juvenile justice system exception for the release of information that concerns the "juvenile justice system's ability to effectively serve a student prior to adjudication" is applicable.

If the juvenile justice system seeks the disclosure of information on a student in order to identify and intervene with a juvenile at risk of delinquency, rather than to obtain information solely related to supervision of an adjudicated delinquent, the juvenile could be classified as a preadjudicated delinquent for purposes of this exception. The Secretary of Education believes that each school, working in conjunction with State and local authorities, can best determine whether a release of personally identifiable information from an education record "concerns the juvenile justice system's ability to effectively serve a student prior to adjudication." Thus, FERPA gives schools flexibility in determining whether an education record of a juvenile may be released without the prior written consent of the parent.

Florida provides an example of a State law that allows State and local officials to make use of this IASA amendment to FERPA. The State enacted legislation requiring Florida's Department of Juvenile Justice (DJJ) to establish an early delinquency intervention program with the cooperation of local law enforcement agencies, the judiciary, district school board personnel, the office of the State's Attorney, the office of the Public Defender, and community service agencies that work with children.

The Florida law specifies the type of information the cooperating agencies are to share with DJJ and directs specified agencies and persons to develop information sharing agreements within each county. The law states, "Within each county, the sheriff, the chiefs of police, the district school superintendent shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders. . . .The agreement must specify the condi-

**Examples of Valid Disclosures Under FERPA—Johnny (Part I)**

Johnny, 11, is having problems in school. He is inattentive, does not complete homework assignments, falls asleep in class, and is hostile to some of the other children. When the school counselor interviews him, Johnny is sullen and unresponsive. The school counselor makes several unsuccessful attempts to reach the parents. In this situation, the teacher or the counselor can share personal observations with a family services agency but cannot rely on an education record as the source of this personal knowledge of Johnny's situation. If, however, State law authorizes the disclosure and the receiving entity is a juvenile justice system agency, the teacher or the counselor can, to the extent authorized by State statute, then also use information contained in Johnny's education record in making the referral. Thus, FERPA gives schools flexibility in determining whether an education record of a juvenile may be released without the prior written consent of the parent.

**Examples of Valid Disclosures Under FERPA—Johnny (Part II)**

Before the counselor can refer Johnny to an appropriate agency, the police department picks him up on the street at 2 a.m. on a school night. No one is home when the police attempt to contact the parents. Johnny spends the night in a temporary foster home, and the police refer his case to family services the next day. During the assessment process, the agency contacts the school and asks for information about Johnny's attitude and school performance. The school can provide information from Johnny's education record if at least one of these conditions is met:

(1) A parent consents, or
(2) There is a court order or lawfully issued subpoena directing the release of information, or
(3) A State law authorizes information sharing between educators and juvenile justice agencies.

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tions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which development records are to be made available to appropriate department personnel." In addition, the law requires the school district to be notified when a youth is arrested for a felony or a crime of violence. FERPA further requires that juvenile justice system agencies certify in writing that they will not redisclose education records to any third party except as provided by State law.

# Recordkeeping Requirements Under the Family Educational Rights and Privacy Act

A school district must follow certain FERPA recordkeeping requirements. Section 99.32 of the FERPA regulations requires that schools maintain with each student's education records a record of all individuals, agencies, or organizations that requested or obtained access to the student's education records, specifying the legitimate interest that each party had in obtaining the information. Accordingly, educators should document all disclosures of information from a student's education records unless the request is from and the disclosure is to one of the following:

- The parent or eligible student.
- A school official within the school system.
- A party with written consent from the parent or eligible student.
- A party seeking directory information.
- A party requesting or receiving the records as directed by a Federal grand jury or other law enforcement subpoena when the issuing court or agency has ordered that no one disclose the existence or the contents of the subpoena or the information furnished in response to the subpoena.

**Examples of Valid Disclosures Under FERPA—Ryan (Part II)**

Ryan, now 14, is adjudicated delinquent for breaking into several vehicles on a parking lot. This is his second offense. As a condition of his probation, the court orders Ryan to attend school regularly and to achieve passing grades in his classes. FERPA does not prevent a school from receiving information about Ryan's status as an adjudicated delinquent. The school, in turn, can assist juvenile probation by providing information from Ryan's education record concerning Ryan's attitude and performance in school. However, because of the fact that Ryan has been adjudicated and the information being sought is solely related to Ryan's status as an adjudicated delinquent, his school can only provide this information if one of the following conditions is met:

(1) A parent consents, or
(2) There is a court order or lawfully issued subpoena directing the release of the information.

# Administration of the Family Educational Rights and Privacy Act

## The U.S. Department of Education's Family Policy Compliance Office

The Family Policy Compliance Office in the U.S. Department of Education administers FERPA. The Office provides technical assistance on FERPA to education agencies and institutions, State and local officials, and parents. The Office also investigates alleged violations of the law.

## Family Educational Rights and Privacy Act Regulations

Another responsibility of the Family Policy Compliance Office is to develop and issue regulations to aid in effective administration of FERPA. On November 21, 1996, the Department of Education published regulations to implement the IASA amendments to FERPA. At the same time, in an effort to reduce the burden on schools and to streamline the complaint procedures, the Department of Education also revised the FERPA regulations to do the following:

- Give schools greater flexibility by removing the requirement for adoption of a formal written student records policy.
- Require schools to include additional information in the mandatory annual notification of rights so that parents and students will receive more effective notification of their rights and procedures to pursue them. (A sample notification is included in appendix B.)
- Clarify FERPA requirements for State education agencies (SEA's) to afford parents access to any education records that SEA's maintain on their children.
- Clarify what constitutes legal standing to file FERPA complaints with the Department of Education. The complainant must be a parent or an eligible student affected by an alleged violation.
- Clarify the requirement that a school district make a reasonable effort to notify in advance the parent or student of its intent to disclose information from education records to a court in cases where a school district is initiating legal action against a parent or student.

## The Family Educational Rights and Privacy Act and State Laws

If a school wishes to continue to receive Federal funds, the recipient must comply with FERPA's provisions on the disclosure of education records. (A school district is considered a "recipient" if it receives any funds directly from a program administered by the Secretary of Education or is under the auspices of a State education agency that receives such funds.) Compliance with portions of a State law that conflict with FERPA may jeopardize continued eligibility to receive Federal education funds. If educators believe that a State law conflicts with FERPA, they should bring this to the attention of appropriate State officials.

# Multiagency Agreements To Facilitate Cooperation and Information Sharing

## Purpose

Multiagency agreements formulated to be consistent with Federal, State, and local laws provide an organizing framework for State and local juvenile justice reform efforts. These agreements are crucial to the development of a juvenile justice network. Typically agencies involved in these agreements provide a wide range of services to juveniles. Parties to such an agreement may be child welfare, mental health, and social services agencies; licensed private community organizations; law enforcement agencies; juvenile courts; district attorney (or State's attorney), probation, corrections, and public defenders offices; and local schools.

Generally, delinquency prevention and intervention, community safety, efficiency, and coordination are the objectives that drive the development of multiagency agreements. More specifically, these objectives may include the following:

- Providing appropriate programs and services to intervene with juveniles currently involved in the juvenile justice system.
- Providing appropriate programs and services designed to deter at-risk juveniles from delinquent behavior.
- Increasing the safety and security of the community and its children by reducing juvenile crime.
- Eliminating duplication of services.
- Coordinating efforts to share resources and training programs.

The contents of interagency agreements underscore the commitment of each agency to offer a maximum degree of cooperation and planning to achieve the group objectives. Typically these agencies agree to participate in interagency planning and development meetings, assign staff to participate in consolidated case management systems where feasible, develop internal policies and procedures to implement the agreement to the fullest extent, and comply with Federal and State laws in implementing the agreement.

Other provisions of the agreement may identify the unique role of each agency. Law enforcement officials might agree, for example, to promptly notify other agencies when juveniles are arrested for truancy or certain violent crimes. The juvenile court might agree to provide periodic information on the disposition of cases or seek input from agencies on dispositional alternatives. The probation office might agree to share information about the move of a juvenile offender into or out of the jurisdiction and the terms, if any, of probation. Other agencies might be willing to share information on the achievement, behavioral, and attendance history of juvenile offenders to improve assessment and proper treatment. Educators might also agree to make referrals to appropriate agencies when students or staff commit certain offenses or exhibit at-risk behavior. (See sample interagency agreement in appendix D.)

## Legal Considerations

Relevant Federal and State record confidentiality laws can resolve potential legal problems that arise in connection with interagency agreements. Laws that govern the activities of each State agency may also create standards for information sharing. Policies on juvenile record information vary greatly from State to State. For example, some States treat juvenile court records as public information (see Washington Revised Code 13.50.050; 13.50.010). Other States permit access to court records only by the

juvenile and the agencies directly involved in the juvenile justice system. Most States use a method of conditional disclosure of juvenile court records in which a judge permits access to agencies that are not a part of the juvenile justice system by court order (see Pennsylvania Revised Code 6307, 6308).

State law may occasionally require local agencies to share information. Some States direct law enforcement units to report arrest information to schools when the arrest involves violent offenses of an enrolled student (see Florida Statutes 39.045). Other States require the formation of interagency teams for specific purposes (see Illinois Statutes, Chapter 75, Section 405/1–8.2). State law may also regulate the disclosure of records that other child care agencies maintain on juveniles. These laws should be consulted as well. All agencies are vital components of a comprehensive local strategy to combat juvenile delinquency. Those interested in developing a comprehensive local strategy should identify State laws that frustrate strategies of local teams to share files of record information and advocate for their appropriate reform. Statutes from Florida and Illinois (see appendix E) illustrate comprehensive legislative approaches to delinquency prevention designed to both prevent delinquency and intervene in the lives of at-risk juveniles.

## An Effective Program Based on Multiagency Agreements: the Serious Habitual Offender Comprehensive Action Program

A current example of multiagency agreements that unify community resources to improve the delivery of services to juveniles is the Serious Habitual Offender Comprehensive Action Program (SHOCAP). When research indicated that a small proportion of offenders commit most serious and violent juvenile crime, OJJDP introduced the Serious Habitual Offender/ Drug-Involved Program in 1983. SHOCAP, which grew out of those initial efforts, seeks to improve public safety by involving those agencies working within the juvenile justice system, for example, law enforcement, prosecution, education, probation, corrections, and social services in a cooperative process to share information and manage juvenile justice system agency cases. The program provides the structure for focusing attention on serious habitual offenders (SHO's) and enhances the quality and relevance of information exchanged through active interagency collaboration.

SHOCAP has four main goals:

- To provide a structured, coordinated juvenile justice system focus on habitual juvenile offenders.
- To establish specific juvenile justice policies that enhance the effectiveness of system procedures for handling habitual juvenile offenders.
- To promote public safety by identifying, tracking, arresting, and prosecuting the most violent habitual juvenile offenders.
- To identify pre-Serious Habitual Offender juveniles (pre-SHO's) and provide early intervention services designed to prevent these juveniles' development into SHO's.

In short, SHOCAP identifies a community's most dangerous and violent juvenile offenders and focuses community resources on immediate and aggressive intervention, including detention, vertical prosecution, and enhanced sentences when they offend or reoffend. The program prevents youth from falling through the cracks by ensuring that relevant case information is made available immediately for juvenile justice decisionmakers. With increased interagency cooperation and information sharing, SHOCAP provides a framework for more efficient service delivery by reducing duplicate services. This increased efficiency allows SHOCAP programs to establish additional early intervention and treatment resources for pre-SHO youth before they become more serious habitual offenders.

**Examples of Valid Disclosures Under FERPA—Ronald**

Ronald has been involved in several strong-arm robberies and is at risk of becoming a career criminal offender. The county SHOCAP program designates Ronald as a serious habitual offender and develops a supervision and treatment program. He is required to go to school each day, attend a jobs program three times a week, and go to counseling. Nothing in FERPA restricts Ronald's school from receiving information regarding his SHO status. If there is a State law authorizing information sharing with juvenile justice system agencies, Ronald's school can assist in the treatment program by sharing information from his education record about his attendance, performance, and behavior with other agencies providing supervision and services to Ronald.

Florida is developing a statewide SHOCAP program. The program involves a Federal and State partnership: selected county sites receive SAFE POLICY training, provided by OJJDP, and technical assistance, provided by the Florida Department of Law Enforcement. Currently there are 26 SHOCAP sites in Florida with 5 additional sites scheduled for implementation in 1997. For more information regarding SHOCAP, please refer to "Sources of Technical Assistance," p. 21.

Schools are indispensable partners in effective SHOCAP programs because adjudicated offenders who are not placed in detention are likely to return to campus. As noted previously, where State law authorizes or directs disclosures, educators should be advised when alleged juvenile offenders return to the school population and given appropriate information about the youth's offense and current status. Educators can assist in this partnership, to the extent authorized by Federal and State law, by providing information to supervising agencies to better assess the rehabilitation process by tracking attendance, academic achievement, and in-school behavior.

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# Conclusion

Educators can supply valuable information to other agencies in a delinquency prevention network. In an ideal information sharing system, a lively, two-way exchange of information occurs with educators actively involved in the process. In this type of system, each agency in the jurisdiction talks and listens. The juveniles about whom they share a common interest benefit from the synergy that unfolds.

Schools that operate outside the juvenile justice system agency information network are at the same disadvantage as juvenile justice systems that operate without school input. Disruptive and sometimes dangerous youth are placed back onto campuses and into school classrooms as a condition of court-ordered supervision without proper notification and assessment of their needs, often with problems beyond the expertise available in the traditional school.

Students, faculty, and staff are placed at risk as the school phase of probation unfolds without any realistic hope of proper supervision because school officials were not informed of the particular information they needed to best serve the juvenile and protect other students, faculty, and staff. Juvenile offenders may be tempted to turn their invisibility on campus into license for further lawlessness and disruptive conduct.

It would be hard to overstate the need for educators to share and receive information about student conduct. There is no doubt, however, that without meaningful information sharing between youth-serving agencies, all the efforts of these agencies working independently will not be enough to give the Nation's children safe, nurturing environments in which to grow.

# Sources of Technical Assistance

## U.S. Department of Education

One source of technical assistance is the Department of Education's recent publication entitled *Strong Families, Strong Schools: Building Community Partnerships For Learning.* As this booklet points out, research has shown that greater family involvement in children's learning is a critical link to achieving a high-quality education and a safe, disciplined learning environment for every student. *Strong Families, Strong Schools* is available from the Department of Education (800–USA–LEARN).

The Department of Education encourages families and schools to team up to make schools safer—a precondition for learning—by establishing family-school-community partnerships to make safe schools a priority. Although FERPA does not allow schools to share information on students with other parents, schools can designate parents serving on a school or interagency committee designed to address juvenile delinquency as school officials with a legitimate educational interest. The sample FERPA notification of rights to parents and students in appendix B includes language to cover this situation.

For more information about FERPA or its applicability to participation in Information Sharing Interagency Agreements, contact:

Family Policy Compliance Office
U.S. Department of Education
600 Independence Avenue SW.
Washington, DC 20202–4605
202–260–3887
E-mail: FERPA@ED.Gov

## U.S. Department of Justice

### Office of Juvenile Justice and Delinquency Prevention Information Sharing Initiatives

OJJDP's training and technical assistance programs stress the importance of interagency information sharing. The School Administrators for Effective Police, Prosecution, Probation Operations Leading to Improved Children and Youth Services Program (SAFE POLICY) is a week-long program directed at reducing juvenile violence in schools. The program stresses improved use of information by developing interagency agreements that call for information sharing and coordination of juvenile services.

The Chief Executive Officer Course is an intensive 1-day orientation for local executives of public and private agencies that emphasizes information sharing as a method for improving the juvenile justice system.

The Serious Habitual Offender Comprehensive Action Program (SHOCAP) is presented as a module in the SAFE POLICY and Chief Executive Training programs and is also available in a 40-hour course designed to assist a SHOCAP jurisdiction in developing its own unique interagency information sharing agreement. The course requires the participation of policy level officials from law enforcement, schools, juvenile detention/corrections, prosecution, and social services.

Each of these courses has a module on laws and policies that affect information sharing. They will use this Guide as a resource for future presentations. The courses also teach techniques and methods designed to maximize information sharing. Sample State legislation, consent policies, and judicial orders are also available to course participants.

In addition, OJJDP can provide direct technical assistance upon request to individual jurisdictions working on improving their information sharing.

To learn more about training and technical assistance related to information sharing, please contact:

Training and Technical Assistance Division
Office of Juvenile Justice and Delinquency Prevention
Office of Justice Programs
U.S. Department of Justice
633 Indiana Avenue NW., 7th Floor
Washington, DC 20531
202–307–5940

## Educators, remember:

1. Notify parents and eligible students annually of their rights under FERPA.
2. Notify parents and eligible students annually of "directory information" designated by the school.
3. Identify school officials and criteria for legitimate educational interests in the annual notification of rights.
4. Designate a school official as the school's "law enforcement official," if you do not have a law enforcement unit.
5. Disclose education records only with parental consent or under one of the exceptions in FERPA.
6. Provide parents and eligible students access to education records within 45 days of request.
7. The definition of "education records" under FERPA encompasses *all* records that contain information on a student and are maintained by a school, except those records specifically exempted by law.
8. Give notice to parents or eligible students, when appropriate, of a court order or subpoena for education records before compliance.
9. Inform third parties of 5-year penalty for redisclosure of education records without parental consent.
10. Keep records of disclosures to third parties.

# Appendix A: Family Educational Rights and Privacy Act Regulations

34 CFR Part 99

## Subpart A—General

*Section*


99.1 To which educational agencies or institutions do these regulations apply?

99.2 What is the purpose of these regulations?

99.3 What definitions apply to these regulations?

99.4 What are the rights of parents?

99.5 What are the rights of students?

99.7 What must an educational agency or institution include in its annual notification?

99.8 What provisions apply to records of a law enforcement unit?


## Subpart B—What Are the Rights of Inspection and Review of Education Records?

*Section*


99.10 What rights exist for a parent or eligible student to inspect and review education records?

99.11 May an educational agency or institution charge a fee for copies of education records?

99.12 What limitations exist on the right to inspect and review records?


## Subpart C—What Are the Procedures for Amending Educating Records?

*Section*


99.20 How can a parent or eligible student request amendment of the student's education records?

99.21 Under what conditions does a parent or eligible student have the right to a hearing?

99.22 What minimum requirements exist for the conduct of a hearing?


## Subpart D—May an Educational Agency or Institution Disclose Personally Identifiable Information From Education Records?

*Section*


99.30 Under what conditions is prior consent required to disclose information?

99.31 Under what conditions is prior consent not required to disclose information?

99.32 What recordkeeping requirements exist concerning requests and disclosures?

99.33 What limitations apply to the redisclosure of information?

99.34 What conditions apply to disclosure of information to other educational agencies or institutions?

99.35 What conditions apply to disclosure of information for Federal or State program purposes?

99.36 What conditions apply to disclosure of information in health and safety emergencies?

99.37 What conditions apply to disclosing directory information?

99.38 What conditions apply to disclosure of information as permitted by State statute adopted after November 19, 1974 concerning the juvenile justice system?

## Subpart E—What Are the Enforcement Procedures?

### *Section*

99.60 What functions has the Secretary delegated to the Office and to the Office of Administrative Law Judges?

99.61 What responsibility does an educational agency or institution have concerning conflict with State or local laws?

99.62 What information must an educational agency or institution submit to the Office?

99.63 Where are complaints filed?

99.64 What is the complaint procedure?

99.65 What is the content of the notice of complaint issued by the Office?

99.66 What are the responsibilities of the Office in the enforcement process?

99.67 How does the Secretary enforce decisions?

## Subpart A—General

### *§ 99.1 To which educational agencies or institutions do these regulations apply?*

(a) Except as otherwise noted in § 99.10, this part applies to an educational agency or institution to which funds have been made available under any program administered by the Secretary, if—

(1) The educational institution provides educational services or instruction, or both, to students; or

(2) The educational agency provides administrative control of or direction of, or performs service functions for, public elementary or secondary schools or postsecondary institutions.

(b) This part does not apply to an educational agency or institution solely because students attending that agency or institution receive non-monetary benefits under a program referenced in paragraph (a) of this section, if no funds under that program are made available to the agency or institution.

(c) The Secretary considers funds to be made available to an educational agency or institution if funds under one or more of the programs referenced in paragraph (a) of this section—

(1) Are provided to the agency or institution by grant, cooperative agreement, contract, subgrant, or subcontract; or

(2) Are provided to students attending the agency or institution and the funds may be paid to the agency or institution by those students for educational purposes, such as under the Pell Grant Program and the Guaranteed Student Loan Program (Titles IV-A-1 and IV-B, respectively, of the Higher Education Act of 1965, as amended).

(d) If an educational agency or institution receives funds under one or more of the programs covered by this section, the regulations in this part apply to the recipient as a whole, including each of its components (such as a department within a university).

(Authority: 20 U.S.C. 1232g)

### *§ 99.2 What is the purpose of these regulations?*

The purpose of this part is to set out requirements for the protection of privacy of parents and students under section 444 of the General Education Provisions Act, as amended.

(Authority: 20 U.S.C. 1232g)

NOTE: 34 CFR 300.560-300.576 contain requirements regarding confidentiality of information relating to handicapped children who receive benefits under the Education of the Handicapped Act.

### *§ 99.3 What definitions apply to these regulations?*

The following definitions apply to this part:

"Act" means the Family Educational Rights and Privacy Act of 1974, as amended, enacted as section 444 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232g)

"Attendance" includes, but is not limited to:

(a) Attendance in person or by correspondence; and

(b) The period during which a person is working under a work-study program.

(Authority: 20 U.S.C. 1232g)

"Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended.

(Authority: 20 U.S.C. 1232g(a)(5)(A))

"Disciplinary action or proceeding" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.

(Authority: 20 U.S.C. 1232g(b)(1))

"Educational agency or institution" means any public or private agency or institution to which this part applies under § 99.1(a).

(Authority: 20 U.S.C. 1232g(a)(3))

"Education records" (a) The term means those records that are:

(1) Directly related to a student; and

(2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

(b) The term does not include:

(1) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(2) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of § 99.8.

(3)(i) Records relating to an individual who is employed by an educational agency or institution, that:

(A) Are made and maintained in the normal course of business;

(B) Relate exclusively to the individual in that individual's capacity as an employee; and

(C) Are not available for use for any other purpose.

(ii) Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under paragraph (b)(3)(i) of this definition.

(4) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution; and

(5) Records that only contain information about an individual after he or she is no longer a student at that agency or institution.

(Authority: 20 U.S.C. 1232g(a)(4))

"Eligible student" means a student who has reached 18 years of age or is attending an institution of postsecondary education.

(Authority: 20 U.S.C. 1232g(d))

"Institution of postsecondary education" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided as determined under State law.

(Authority: 20 U.S.C. 1232g(d))

"Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

(Authority: 20 U.S.C. 1232g)

"Party" means an individual, agency, institution, or organization.

(Authority: 20 U.S.C. 1232g(b)(4)(A))

"Personally identifiable information" includes, but is not limited to:

(a) The student's name;

(b) The name of the student's parent or other family member;

(c) The address of the student or student's family;

(d) A personal identifier, such as the student's social security number or student number;

(e) A list of personal characteristics that would make the student's identity easily traceable; or

(f) Other information that would make the student's identity easily traceable.

(Authority: 20 U.S.C. 1232g)

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

(Authority: 20 U.S.C. 1232g)

"Secretary" means the Secretary of the U.S. Department of Education or an official or employee of the Department of Education acting for the Secretary under a delegation of authority.

(Authority: 20 U.S.C. 1232g)

"Student," except as otherwise specifically provided in this part, means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

(Authority: 20 U.S.C. 1232g(a)(6))

### *§ 99.4 What are the rights of parents?*

An educational agency or institution shall give full rights under the Act to either parent, unless the agency or institution has been provided with evidence that there is a court order, State statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.

(Authority: 20 U.S.C. 1232g)

### *§ 99.5 What are the rights of students?*

(a) When a student becomes an eligible student, the rights accorded to, and consent required of, parents under this part transfer from the parents to the student.

(b) The Act and this part do not prevent educational agencies or institutions from giving students rights in addition to those given to parents.

(c) If an individual is or has been in attendance at one component of an educational agency or institution, that attendance does not give the individual rights as a student in other components of the agency or institution to which the individual has applied for admission, but has never been in attendance.

(Authority: 20 U.S.C. 1232g(d))

### *§ 99.7 What must an educational agency or institution include in its annual notification?*

(a)(1) Each educational agency or institution shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under the Act and this part.

(2) The notice must inform parents or eligible students that they have the right to—

(i) Inspect and review the student's education records;

(ii) Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;

(iii) Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and § 99.31 authorize disclosure without consent; and

(iv) File with the Department a complaint under §§ 99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of the act and this part.

(3) The notice must include all of the following:

(i) The procedure for exercising the right to inspect and review education records.

(ii) The procedure for requesting amendment of records under § 99.20.

(iii) If the educational agency or institution has a policy of disclosing education records under § 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

(b) An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

(1) An educational agency or institution shall effectively notify parents or eligible students who are disabled.

(2) An agency or institution of elementary or secondary education shall effectively notify parents who have a primary or home language other than English.

(Approved by the Office of Management and Budget under control number 1880–0508)

(Authority 20 U.S.C. 1232g(e) and (f).

### *§ 99.8 What provisions apply to records of a law enforcement unit?*

(a) (1) "Law enforcement unit" means any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by that agency or institution to—

(i) Enforce any local, State, or Federal law, or refer to appropriate authorities a matter for enforcement of any local, State, or Federal law against any individual or organization other than the agency or institution itself; or

(ii) Maintain the physical security and safety of the agency or institution.

(2) A component of an educational agency or institution does not lose its status as a "law enforcement unit" if it also performs other, non-law enforcement functions for the agency or institution, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against the student.

(b) (1) Records of law enforcement unit means those records, files, documents, and other materials that are—

(i) Created by a law enforcement unit;

(ii) Created for a law enforcement purpose; and

(iii) Maintained by the law enforcement unit.

(2) Records of law enforcement unit does not mean—

(i) Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the educational agency or institution other than the law enforcement unit; or

(ii) Records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution.

(c) (1) Nothing in the Act prohibits an educational agency or institution from contacting its law enforcement unit, orally or in writing, for the purpose of asking that unit to investigate a possible violation of, or to enforce, any local, State, or Federal law.

(2) Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to the Act, including the disclosure provisions of § 99.30, while in possession of the law enforcement unit.

(d) The Act neither requires nor prohibits the disclosure by any educational agency or institution of its law enforcement unit records.

(Authority: 20 U.S.C. 1232g(a) (4) (B) (ii))

## Subpart B—What Are the Rights of Inspection and Review of Education Records?

### *§ 99.10 What rights exist for a parent or eligible student to inspect and review education records?*

(a) Except as limited under § 99.12, a parent or eligible student must be given the opportunity to inspect and review the student's education records.

This provision applies to—

(1) Any educational agency or institution; and

(2) Any State educational agency (SEA) and its components.

(i) For the purposes of subpart B of this part, an SEA and its components constitute an educational agency or institution.

(ii) An SEA and its components are subject to subpart B of this part if the SEA maintains education records on students who are or have been in attendance at any school of an educational agency or institution subject to the Act and this part.

(b) The educational agency or institution, or SEA or its component, shall comply with a request for access to records within a reasonable period of time, but not more than 45 days after it has received the request.

(c) The educational agency or institution, or SEA or its component, shall respond to reasonable requests for explanations and interpretations of the records.

(d) If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the educational agency or institution, or SEA or its component, shall—

(1) Provide the parent or eligible student with a copy of the records requested; or

(2) Make other arrangements for the parent or eligible student to inspect and review the requested records.

(e) The educational agency or institution, or SEA or its component, shall not destroy any education records if there is an outstanding request to inspect and review the records under this section.

(f) While an education agency or institution is not required to give an eligible student access to treatment records under paragraph (b)(4) of the definition of "Education records" in § 99.3, the student may have those records reviewed by a physician or other appropriate professional of the student's choice.

(Authority: 20 U.S.C. 1232g(a)(1)(A) and (B))

### *§ 99.11 May an educational agency or institution charge a fee for copies of education records?*

(a) Unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education records, an educational agency or institution may charge a fee for a copy of an education record which is made for the parent or eligible student.

(b) An educational agency or institution may not charge a fee to search for or to retrieve the education records of a student.

(Authority: 20 U.S.C. 1232g(a)(1))

### *§ 99.12 What limitations exist on the right to inspect and review records?*

(a) If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student.

(b) A postsecondary institution does not have to permit a student to inspect and review education records that are:

(1) Financial records, including any information those records contain, of his or her parents;

(2) Confidential letters and confidential statements of recommendation placed in the education records of the student before January 1, 1975, as long as the statements are used only for the purposes for which they were specifically intended; and

(3) Confidential letters and confidential statements of recommendation placed in the student's education records after January 1, 1975, if:

(i) The student has waived his or her right to inspect and review those letters and statements; and

(ii) Those letters and statements are related to the student's:

(A) Admission to an educational institution;

(B) Application for employment; or

(C) Receipt of an honor or honorary recognition.

(c)(1) A waiver under paragraph (b)(3)(i) of this section is valid only if:

(i) The educational agency or institution does not require the waiver as a condition for admission to or receipt of a service or benefit from the agency or institution; and

(ii) The waiver is made in writing and signed by the student, regardless of age.

(2) If a student has waived his or her rights under paragraph (b)(3)(i) of this section, the educational institution shall:

(i) Give the student, on request, the names of the individuals who provided the letters and statements of recommendation; and

(ii) Use the letters and statements of recommendation only for the purpose for which they were intended.

(3)(i) A waiver under paragraph (b)(3)(i) of this section may be revoked with respect to any actions occurring after the revocation.

(ii) A revocation under paragraph (c)(3)(i) of this section must be in writing.

(Authority: 20 U.S.C. 1232g(a)(1)(A), (B), (C), and (D))

## Subpart C—What Are the Procedures for Amending Education Records?

### *§ 99.20 How can a parent or eligible student request amendment of the student's education records?*

(a) If a parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, he or she may ask the educational agency or institution to amend the record.

(b) The educational agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request.

(c) If the educational agency or institution decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing under § 99.21.

(Authority: 20 U.S.C. 1232g(a)(2))

### *§ 99.21 Under what conditions does a parent or eligible student have the right to a hearing?*

(a) An educational agency or institution shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student.

(b)(1) If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall:

(i) Amend the record accordingly; and

(ii) Inform the parent or eligible student of the amendment in writing.

(2) If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the agency or institution, or both.

(c) If an educational agency or institution places a statement in the education records of a student under paragraph (b)(2) of this section, the agency or institution shall:

(1) Maintain the statement with the contested part of the record for as long as the record is maintained; and

(2) Disclose the statement whenever it discloses the portion of the record to which the statement relates.

(Authority: 20 U.S.C. 1232g(a)(2))

### *§ 99.22 What minimum requirements exist for the conduct of a hearing?*

The hearing required by § 99.21 must meet, at a minimum, the following requirements:

(a) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.

(b) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.

(c) The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

(d) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised under § 99.21. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

(e) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.

(f) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

(Authority: 20 U.S.C. 1232g(a)(2))

## Subpart D—May an Educational Agency or Institution Disclose Personally Identifiable Information From Education Records?

### *§ 99.30 Under what conditions is prior consent required to disclose information?*

(a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in § 99.31.

(b) The written consent must:

(1) Specify the records that may be disclosed;

(2) State the purpose of the disclosure; and

(3) Identify the party or class of parties to whom the disclosure may be made.

(c) When a disclosure is made under paragraph (a) of this section:

(1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and

(2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(Authority: 20 U.S.C. 1232g(b)(1) and (b)(2)(A))

### *§ 99.31 Under what conditions is prior consent not required to disclose information?*

(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

(2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of:

(i) The Comptroller General of the United States;

(ii) The Secretary; or

(iii) State and local educational authorities.

(4)(i) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(A) Determine eligibility for the aid;

(B) Determine the amount of the aid;

(C) Determine the conditions for the aid; or

(D) Enforce the terms and conditions of the aid.

(ii) As used in paragraph (a)(4)(i) of this section, "financial aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

(Authority: 20 U.S.C. 1232g(b)(1)(D))

(5)(i) The disclosure is to State and local officials or authorities to whom this information is specifically—

(A) Allowed to be reported or disclosed pursuant to a State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or

(B) Allowed to be reported or disclosed pursuant to a State statute adopted after November 19, 1974, subject to the requirements of § 99.38.

(ii) Paragraph (a)(5)(i) of this section does not prevent a State from further limiting the number or type of State or local officials to whom disclosures may be made under that paragraph.

(6)(i) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

(A) Develop, validate, or administer predictive tests;

(B) Administer student aid programs; or

(C) Improve instruction.

(ii) The agency or institution may disclose information under paragraph (a)(6)(i) of this section only if:

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(iii) If this Office determines that a third party outside the educational agency or institution to whom information is disclosed under this paragraph (a)(6) violates paragraph (a)(6)(ii)(B) of this section, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

(iv) For the purposes of paragraph (a)(6) of this section, the term "organization" includes, but is not limited to, Federal, State, and local agencies, and independent organizations.

(7) The disclosure is to accrediting organizations to carry out their accrediting functions.

(8) The disclosure is to parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954.

*[Note: The above section should read "the Internal Revenue Code of 1986."]*

(9)(i) The disclosure is to comply with a judicial order or lawfully issued subpoena.

(ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with—

(A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

(iii) If the educational agency or institution initiates legal action against a parent or student and has complied with paragraph (a)(9)(ii) of this section, it may disclose the student's education records that are relevant to the action to the court without a court order or subpoena.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in § 99.36.

(11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in § 99.37.

(12) The disclosure is to the parent of a student who is not an eligible student or to the student.

(13) The disclosure is to an alleged victim of any crime of violence, as that term is defined in Section 16 of title 18, United States Code, of the results of any disciplinary proceeding conducted by an institution of postsecondary education against the alleged perpetrator of that crime with respect to that crime.

(b) This section does not forbid an educational agency or institution to disclose, nor does it require an educational agency or institution to disclose, personally identifiable information from the education records of a student to any parties under paragraphs (a)(1) through (11) and (13) of this section.

(Authority: 20 U.S.C. 1232g(a)(5)(A), (b)(1), (b)(2)(B), and (b)(6))

### *§ 99.32 What recordkeeping requirements exist concerning requests and disclosures?*

(a)(1) An educational agency or institution shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student.

(2) The agency or institution shall maintain the record with the education records of the student as long as the records are maintained.

(3) For each request or disclosure the record must include:

(i) The parties who have requested or received personally identifiable information from the education records; and

(ii) The legitimate interests the parties had in requesting or obtaining the information.

(b) If an educational agency or institution discloses personally identifiable information from an education record with the understanding authorized under § 99.33(b), the record of the disclosure required under this section must include:

(1) The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

(2) The legitimate interests under § 99.31 which each of the additional parties has in requesting or obtaining the information.

(c) The following parties may inspect the record relating to each student:

(1) The parent or eligible student.

(2) The school official or his or her assistants who are responsible for the custody of the records.

(3) Those parties authorized in § 99.3 1 (a)(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

(d) Paragraph (a) of this section does not apply if the request was from, or the disclosure was to:

(1) The parent or eligible student;

(2) A school official under § 99.3 1 (a)(1);

(3) A party with written consent from the parent or eligible student;

(4) A party seeking directory information; or

(5) A party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

(Approved by the Office of Management and Budget under control number 1880–0508)

(Authority: 20 U.S.C. 1232g(b)(1) and (b)(4)(A))

### *§ 99.33 What limitations apply to the redisclosure of information?*

(a)(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student.

(2) The officers, employees, and agents of a party that receives information under paragraph (a)(1) of this section may use the information, but only for the purposes for which the disclosure was made.

(b) Paragraph (a) of this section does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

(1) The disclosures meet the requirements of § 99.31; and

(2) The educational agency or institution has complied with the requirements of § 99.32(b).

(c) Paragraph (a) of this section does not apply to disclosures made pursuant to court orders or to lawfully issued subpoenas under § 99.31(a)(9), to disclosures of directory information under §99.31(a)(11), or to disclosures to a parent or student under § 99.31 (a)(12).

(d) Except for disclosures under § 99.31(a)(9), (11) and (12), an educational agency or institution shall inform a party to whom disclosure is made of the requirements of this section.

(e) If this Office determines that a third party improperly rediscloses personally identifiable information from education records in violation of § 99.33(a) of this section, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

(Authority: 20 U.S.C. 1232g(b)(4)(B))

### *§ 99.34 What conditions apply to disclosure of information to other educational agencies or institutions?*

(a) An educational agency or institution that discloses an education record under § 99.31(a)(2) shall:

(1) Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:

(i) The disclosure is initiated by the parent or eligible student; or

(ii) The annual notification of the agency or institution under § 99.7 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll:

(2) Give the parent or eligible student, upon request, a copy of the record that was disclosed; and

(3) Give the parent or eligible student, upon request, an opportunity for a hearing under Subpart C.

(b) An educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:

(1) The student is enrolled in or receives services from the other agency or institution; and

(2) The disclosure meets the requirements of paragraph (a) of this section.

(Authority: 20 U.S.C. 1232g(b)(1)(B))

### *§ 99.35 What conditions apply to disclosure of information for Federal or State program purposes?*

(a) The officials listed in § 99.31(a)(3) may have access to education records in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs.

(b) Information that is collected under paragraph (a) of this section must:

(1) Be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to in paragraph (a) of this section; and

(2) Be destroyed when no longer needed for the purposes listed in paragraph (a) of this section.

(c) Paragraph (b) of this section does not apply if:

(1) The parent or eligible student has given written consent for the disclosure under § 99.30; or

(2) The collection of personally identifiable information is specifically authorized by Federal law.

(Authority: 20 U.S.C. 1232g(b)(3))

### *§ 99.36 What conditions apply to disclosure of information in health and safety emergencies?*

(a) An educational agency or institution may disclose personally identifiable information from an education record to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

(b) Nothing in the Act or this part shall prevent an educational agency or institution from —

(1) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(2) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials within the agency or institution who the agency or institution has determined have legitimate educational interests in the behavior of the student; or

(3) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(c) Paragraphs (a) and (b) of this section will be strictly construed.

(Authority: 20 U.S.C. 1232g(b)(1)(I) and (h))

### *§ 99.37 What conditions apply to disclosing directory information?*

(a) An educational agency or institution may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution of:

(1) The types of personally identifiable information that the agency or institution has designated as directory information;

(2) A parent's or eligible student's right to refuse to let the agency or institution designate any or all of those types of information about the student as directory information; and

(3) The period of time within which a parent or eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(b) An educational agency or institution may disclose directory information about former students without meeting the conditions in paragraph (a) of this section.

(Authority: 20 U.S.C. 1232g(a)(5)(A) and (B))

### *§ 99.38 What conditions apply to disclosure of information as permitted by State statute adopted after November 19, 1974 concerning the juvenile justice system?*

(a) If reporting or disclosure allowed by State statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, an educational agency or institution may disclose education records under § 99.31(a)(5)(i)(B).

(b) The officials and authorities to whom the records are disclosed shall certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under State law, without the prior written consent of the parent of the student.

(Authority: 20 U.S.C. 1232g(b)(1)(J))

## Subpart E—What Are the Enforcement Procedures?

### *§ 99.60 What functions has the Secretary delegated to the Office and to the Office of Administrative Law Judges?*

(a) For the purposes of this subpart, "Office" means the Family Policy Compliance Office, U.S. Department of Education.

(b) The Secretary designates the Office to:

(1) Investigate, process, and review complaints and violations under the Act and this part; and

(2) Provide technical assistance to ensure compliance with the Act and this part.

(c) The Secretary designates the Office of Administrative Law Judges to act as the Review Board required under the Act to enforce the Act with respect to all applicable programs. The term "applicable program" is defined in section 400 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232g(f) and (g), 1234)

### *§ 99.61 What responsibility does an educational agency or institution have concerning conflict with State or local laws?*

If an educational agency or institution determines that it cannot comply with the Act or this part due to a conflict with State or local law, it shall notify the Office within 45 days, giving the text and citation of the conflicting law.

(Authority: 20 U.S.C. 1232g(f))

### *§ 99.62 What information must an educational agency or institution submit to the Office?*

The Office may require an educational agency or institution to submit reports containing information necessary to resolve complaints under the Act and the regulations in this part.

(Authority: 20 U.S.C. 1232g(f) and (g))

### *§ 99.63 Where are complaints filed?*

A parent or eligible student may file a written complaint with the Office regarding an alleged violation under the Act and this part. The Office's address is: Family Policy Compliance Office, U.S. Department of Education, Washington, D.C. 20202–4605.

(Authority: 20 U.S.C. 1232g(g))

### *§ 99.64 What is the complaint procedure?*

(a) A complaint filed under § 99.63 must contain specific allegations of fact giving reasonable cause to believe that a violation of the Act or this part has occurred.

(b) The Office investigates each timely complaint to determine whether the educational agency or institution has failed to comply with the provisions of the Act or this part.

(c) A timely complaint is defined as an allegation of a violation of the Act that is submitted to the Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.

(d) The Office extends the time limit in this section if the complainant shows that he or she was prevented by circumstances beyond the complainant's control from submitting the matter within the time limit, or for other reasons considered sufficient by the Office.

(Authority: 20 U.S.C. 1232g(f))

### *§ 99.65 What is the content of the notice of complaint issued by the Office?*

(a) The Office notifies the complainant and the educational agency or institution in writing if it initiates an investigation of a complaint under § 99.64(b). The notice to the educational agency or institution—

(1) Includes the substance of the alleged violation; and

(2) Asks the agency or institution to submit a written response to the complaint.

(b) The Office notifies the complainant if it does not initiate an investigation of a complaint because the complaint fails to meet the requirements of § 99.64.

(Authority: 20 U.S.C. 1232g(g))

### *§ 99.66 What are the responsibilities of the Office in the enforcement process?*

(a) The Office reviews the complaint and response and may permit the parties to submit further written or oral arguments or information.

(b) Following its investigation, the Office provides to the complainant and the educational agency or institution written notice of its findings and the basis for its findings.

(c) If the Office finds that the educational agency or institution has not complied with the Act or this part, the notice under paragraph (b) of this section:

(1) Includes a statement of the specific steps that the agency or institution must take to comply; and

(2) Provides a reasonable period of time, given all of the circumstances of the case, during which the educational agency or institution may comply voluntarily.

(Authority: 20 U.S.C. 1232g(f))

### *§ 99.67 How does the Secretary enforce decisions?*

(a) If the educational agency or institution does not comply during the period of time set under §99.66(c), the Secretary may, in accordance with part E of the General Education Provisions Act—

(1) Withhold further payments under any applicable program;

(2) Issue a compliant to compel compliance through a cease-and-desist order; or

(3) Terminate eligibility to receive funding under any applicable program.

(b) If, after an investigation under § 99.66, the Secretary finds that an educational agency or institution has complied voluntarily with the Act or this part, the Secretary provides the complainant and the agency or institution written notice of the decision and the basis for the decision.

(Note: 34 CFR Part 78 contains the regulations of the Education Appeal Board.)

[Please note that Part 78 has been removed from the CFR and has been replaced with 34 CFR Part 81.]

(Authority: 20 U.S.C. 1232g(f); 20 U.S.C. 1234)

[These regulations are codified in 34 CFR Part 99 as amended on November 21, 1996 (61 FR 59292).]

# Appendix B: Model Notification of Rights Under FERPA for Elementary and Secondary Institutions

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education records. They are:

(1) The right to inspect and review the student's education records within 45 days of the day the District receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the record(s) they wish to inspect. The principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

(2) The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate or misleading.

Parents or eligible students may ask *Alpha School District* to amend a record that they believe is inaccurate or misleading. They should write the school principal, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

If the District decides not to amend the record as requested by the parent or eligible student, the District will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

(3) The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the District has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the District discloses education records without consent to officials of another school district in which a student seeks or intends to enroll. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the student of the records request unless it states in its annual notification that it intends to forward records on request.]

(4) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the District to comply with the requirements of FERPA. The Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
600 Independence Avenue SW.
Washington, DC 20202–4605

[NOTE: In addition, a school may want to include its directory information public notice, as required by § 99.37 of the regulations, with its annual notification of rights under FERPA.]

# Appendix C: Sample Court Orders

## Notice of Juvenile Court Disposition

*(On Agency Letterhead)*

Superintendent,

_____ School District

Date: _____

RE: _____

Birthdate: _____

Last school: _____

In accordance with _____ *(Code, Section)* _____ and with the Order of the Juvenile Court, you are hereby notified that the above-named minor was found by the juvenile court to have:

❒ Used, possessed, or sold a controlled substance

Committed:

❒ Murder
❒ Arson
❒ Robbery
❒ Rape or another serious sex offense
❒ Kidnaping
❒ Attempted murder or serious assault
❒ Use or possession of a deadly or dangerous weapon
❒ Another offense that may be significant to school safety, specifically:

_____

_____

_____

On _____, the minor was placed _____

_____

with specific terms of probation to _____

_____

_____

_____

Sincerely yours,

_____

Deputy Probation Officer

Phone: _____

CONFIDENTIAL
INFORMATION

## Court Order Authorizing School-Probation Information Exchange

**STATE OF** _____, **SUPERIOR COURT**

**COUNTY OF** _____, **JUVENILE COURT**

**ORDER OF THE JUVENILE COURT AUTHORIZING RELEASE AND EXCHANGE OF INFORMATION BETWEEN SCHOOL DISTRICTS AND PROBATION OFFICIALS**

Pursuant to the authority vested in the Court by _____
Code, Section _____

**IT IS HEREBY ORDERED** that the Probation Department of _____
_____ County and all school districts in _____
County shall release information to each other regarding all minors and students under their supervision. Information that may be helpful in providing services, supervision, progress reports, advice to the juvenile court, and educational placements, as well as in increasing school safety and other legitimate official concerns of both agencies shall be shared by both agencies. Such information shall include, but is not limited to, academic, attendance, and disciplinary records; arrest and dispositional data; names of minors on probation and their assigned probation officers; and names of minors attending individual schools and their assigned teacher, counselor, or other appropriate adult contact at the school site.

_____ _____
DATE PRESIDING JUDGE, JUVENILE COURT

## Court Order Allowing Interagency Information Exchange

**STATE OF _____, SUPERIOR COURT**

**COUNTY OF _____, JUVENILE COURT**

**ORDER OF THE JUVENILE COURT AUTHORIZING RELEASE AND EXCHANGE OF INFORMATION BETWEEN SCHOOL DISTRICTS, LAW ENFORCEMENT, PROSECUTORS, COUNTY COUNSELS, CHILD PROTECTIVE SERVICES, AND PROBATION DEPARTMENT OF _____ COUNTY**

Pursuant to the authority vested in the court by

_____
*(Code, Section)*

**IT IS HEREBY ORDERED** that juvenile court records and any other information that may be in the possession of school districts, law enforcement, prosecutors, county counsels, child protective services, and probation departments regarding minors may be released, for governmental purposes only, to the following persons who have a legitimate and official interest in the information:

1. The minor
2. The minor's attorney
3. The minor's parents or guardians
4. Foster parents
5. All district attorneys offices
6. All law enforcement agencies
7. All county attorneys
8. All school districts
9. All probation departments
10. All public welfare agencies
11. All youth detention facilities
12. All corrections departments
13. Authorized court personnel
14. All courts
15. All treatment or placement programs that require the information for placement, treatment, or rehabilitation of the minor
16. All multidisciplinary teams for abuse, neglect, or delinquency
17. All juvenile justice citizens advisory boards
18. All State central information registries
19. All coroners
20. All victims may receive information from law enforcement, probation or the prosecutor to enable them to pursue civil remedies. These same agencies may release information to identifiable potential victims that a minor constitutes as a threat to their person or property. They may release the name, description, and whereabouts of the minor and the nature of the threat toward the potential victim.

All information received by authorized recipients listed above may be further disseminated only to other authorized recipients without further order of this court.

**IT IS FURTHER ORDERED** that the release of information to the media regarding minors shall be as follows:

1. District attorneys, probation and law enforcement officials may divulge whether or not an arrest has been made, the arresting offenses, and disposition of the arrest.

2. District attorneys, county counsels, law enforcement, child protective services, and probation officials may divulge whether or not they plan to file a petition and the charges alleged therein, the detention or release status of the minor, the date and location of hearings, the names of the judge or referee who will hear the matter, and the finding and disposition of the court.

3. In the event of runaways or escapes from juvenile placements or institutions, district attorneys, law enforcement, child protective services, and probation officials may confirm the fact of the runaway or escape to the media and the name of the juvenile, the general type of record of the juvenile, and the city of residence of the juvenile.

**IT IS FURTHER ORDERED** that this order does not prohibit release of information by law enforcement, probation officials, or district attorneys about crimes or the contents of arrest reports except insofar as they disclose the identity of the juvenile.

This order supersedes the previous order of the Court concerning release of information dated _____ .

_____ _____

DATE PRESIDING JUDGE, JUVENILE COURT

# Appendix D: Model Interagency Agreement

**This Agreement** made and entered into as of the date set forth below, by and between the

[List Agencies Here]

**WITNESSETH:**

**WHEREAS**, all parties are committed to providing appropriate programs and services to prevent children from becoming at risk and to intervene with children already involved in the juvenile justice system; and

**WHEREAS**, the parties to this agreement desire a maximum degree of long range cooperation and administrative planning in order to provide for the safety and security of the community and its children; and

**WHEREAS**, all parties are committed to improving services to children in the juvenile justice system through sharing information, eliminating duplication of services and coordinating efforts; and

**WHEREAS**, all parties mutually agree that sharing resources, where feasible, and in particular, training efforts, may result in improved coordination; and

**WHEREAS**, it is the understanding by all parties that certain roles in serving children and youth are required by law, and that these laws serve as the foundation for defining the role and responsibility of each participating agency; and

**WHEREAS**, all parties mutually agree that all obligations stated or implied in this agreement shall be interpreted in light of, and consistent with governing State and Federal laws;

**NOW, THEREFORE** in consideration of the following agreements, the parties do hereby convenant and agree to do the following:

**EACH OF THE PARTIES AGREE TO:**

1. Promote a coordinated effort among agencies and staff to achieve maximum public safety with the goal of reducing juvenile crime.

2. Participate in interagency planning meetings, as appropriate.

3. Assign staff, as appropriate, to participate in a consolidated case management system, reentry into school of children returning from detention or commitment program, and other information-sharing activities to assess and develop plans for at-risk youth and those involved in the juvenile justice system.

4. If applicable, participate in the planning and implementation of a juvenile assessment, receiving, and truancy center to the extent feasible for each party.

5. Jointly plan, and/or provide information and access to, training opportunities, when feasible.

6. Develop internal policies and cooperative procedures, as needed, to implement this agreement to the maximum extent possible.

7. Comply with relevant State and Federal law and other applicable local rules which relate to records use, security, dissemination, and retention/destruction.

**THE JUVENILE COURT AGREES TO:**

1. Notify the Superintendent, or designee, of the name and address of any student found to have committed a delinquent act or who has had adjudication withheld. Notification shall be within 48 hours and shall include the specific delinquent act found to have been committed or for which adjudication was withheld, or the specific felony for which the student was found guilty.

2. Identify sanctions for youth who are in contempt of court due to violation of a court order on school attendance.

3. Upon request by the school district, share dispositional information with the Superintendent or his designee regarding juveniles who are students within the educational system for purposes of assessment, placement, or security of persons and property.

4. Consider the issuance of court orders necessary to promote the goals of this agreement, particularly information sharing between the agencies involved.

5. Develop, in corporation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

6. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

**THE DEPARTMENT OF PROBATION AGREES TO:**

1. Notify the Sheriff and Superintendent of Schools or designees, immediately upon learning of the move or other relocation of a juvenile offender into, out of, or within the jurisdiction, who has been adjudicated, or had adjudication withheld for a violent misdemeanor or felony.

2. Share dispositional, placement, and case management information with other agencies as appropriate for purposes of assessment, placement, and enhanced supervision of juveniles.

3. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

4. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

**THE DEPARTMENT OF HEALTH [OR SOCIAL SERVICES OR SIMILAR AGENCY] AGREES TO:**

1. Provide notice to the Superintendent of Schools or a designee, immediately upon the initiation of planning efforts with private nonprofit entities or governmental entities, including agencies part of this Agreement, which could result in the creation, relocation, or expansion of youth services programs and which may impact the school district.

2. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

3. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

**THE SCHOOL SUPERINTENDENT AGREES TO:**

1. Notify, within 24 hours, the child's principal of juveniles arrested for crimes of violence or violation of law upon receipt of such information from law enforcement or the court system or probation department. The principal, within 24 hours of such notice, shall provide such information to student service personnel, the school resource officer, the student assistance coordinator, and the student's immediate teachers.

2. Designate the contact person to be responsible for receiving juvenile arrest information and inform all parties as to the Superintendent's designee.

3. Request criminal history information only for the purposes of assessment, placement, or security of persons and property.

4. Designate the contact person(s) to be responsible for receiving confidential criminal history information and inform all parties as to the names of those individuals.

5. Develop appropriate internal written policies to insure that confidential criminal history information is disseminated only to appropriate school personnel.

6. Share information on student achievement, and behavioral and attendance history on juvenile offenders and juveniles at risk of becoming offenders with the parties to this agreement, for the purpose of assessment and treatment.

7. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

8. Notify the appropriate law enforcement agency when an adult or a student commits any of the following offenses on school property, on school sponsored transportation, or at school sponsored activities: Homicide; Sexual Battery; Armed Robbery; Aggravated Battery on a teacher or other school personnel; Kidnapping or abduction; Arson; Possession, use, or sale of any firearm; Possession, use, or sale of any explosive device; Possession, use, or sale of any controlled substance; or any act that compromises school or community safety. Additionally, if the offense involves a victim, school officials shall notify the victim and the victim's parents of the offense and the victim's right to press charges against the offender. School personnel shall cooperate in any investigation or other proceedings leading to the victim's exercise of right as provided by law.

**EACH LAW ENFORCEMENT CHIEF [OR SHERIFF] AGREES TO:**

1. Notify the Superintendent, or designee, of the name and address of any student arrested for crimes. Notification shall be within 24 hours and shall include the specific delinquent which led to the arrest.

2. Upon request by the school district, share summary criminal history information with the Superintendent or his designee regarding juveniles who are students within the educational system for purposes of assessment, placement, or security of persons and property.

3. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

4. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

5. Notify the Superintendent, or designee, of the name and address of any employee of the school district who is charged with a felony or with a misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance. Notification shall be within 24 hours and shall include the specific act which led to the arrest.

**THE STATE ATTORNEY [OR DISTRICT ATTORNEY] AGREES TO:**

1. Notify the Superintendent or designee when a student is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult in a timely manner.

2. Provide copies to the Superintendent or designee of all Petitions, Informations, or No File decisions, as to students for violent misdemeanors and felonies or delinquent acts which would be a felony if committed by an adult in a timely manner.

## ADMINISTRATIVE

**TERM OF AGREEMENT:**

This agreement shall be in effect as of the date the agreement is signed by the majority of the initiating parties and shall renew automatically unless otherwise modified. All parties are signatory to this agreement when signing or when the majority of the initiating parties signs, whichever is later. Any party signatory to this agreement may terminate participation upon thirty days notice to all other signed parties to the agreement.

**AGENCY REPRESENTATIVES:**

The parties will develop procedures for ongoing meetings and will, at least annually review and if necessary, recommend any changes.

**MODIFICATION OF AGREEMENT:**

Modification of this agreement shall be made only by consent of the majority of the initiating parties. Such shall be made with the same formalities as were followed in this agreement and shall include a written document setting forth the modifications, signed by all the consenting parties.

**OTHER INTERAGENCY AGREEMENTS:**

All parties to this agreement acknowledge that this agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more parties to this agreement. Such agreements shall not nullify the force and effect of this agreement. This agreement does not remove any other obligations imposed by law to share information with other agencies.

**SIGNATURES OF PARTIES TO THIS AGREEMENT:**

Upon signing this agreement, the original agreement and signature shall be filed with the clerk of the court and placed in the public records of the jurisdiction. A certified copy of the agreement and the signatures shall be provided to each signatory to the agreement.

***Cautions for Model Interagency Agreement***

**As educators and juvenile justice professionals work on developing interagency information sharing agreements, they should ensure that the laws of their State permit information and record sharing. Further, the interagency agreement should contain a clause prohibiting the release of information to third parties not covered by the agreement.**

# Appendix E: Model State Statutes

## Illinois

### *WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED*

CHAPTER 705. COURTS
JUVENILE COURTS
ACT 405. JUVENILE COURT ACT OF 1987
ARTICLE I. GENERAL PROVISIONS
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### *405/1-8.1. Legislative findings*

**s. 1-8.1. Legislative findings.**

(a) The General Assembly finds that a substantial and disproportionate amount of serious crime is committed by a relatively small number of juvenile offenders, otherwise known as serious habitual offenders. By this amendatory Act of 1992, the General Assembly intends to support the efforts of the juvenile justice system comprised of law enforcement, state's attorneys, probation departments, juvenile courts, social service providers, and schools in the early identification and treatment of habitual juvenile offenders. The General Assembly further supports increased interagency efforts to gather comprehensive data and actively disseminate the data to the agencies in the juvenile justice system to produce more informed decisions by all entities in that system.

(b) The General Assembly finds that the establishment of a Serious Habitual Offender Comprehensive Action Program throughout the State of Illinois is necessary to effectively intensify the supervision of serious habitual juvenile offenders in the community and to enhance current rehabilitative efforts. A cooperative and coordinated multi-disciplinary approach will increase the opportunity for success with juvenile offenders and assist in the development of early intervention strategies.

CHAPTER 705. COURTS
JUVENILE COURTS
ACT 405. JUVENILE COURT ACT OF 1987
ARTICLE I. GENERAL PROVISIONS
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### *405/1-8.2. Cooperation of agencies; Serious Habitual Offender Comprehensive Action Program*

**s. 1-8.2. Cooperation of agencies; Serious Habitual Offender Comprehensive Action Program.**

(a) The Serious Habitual Offender Comprehensive Action Program (SHOCAP) is a multi-disciplinary interagency case management and information sharing system that enables the juvenile justice system, schools, and social service agencies to make more informed decisions regarding a small number of juveniles who repeatedly commit serious delinquent acts.

(b) Each county in the State of Illinois may establish a multi-disciplinary agency (SHOCAP) committee. The committee shall consist of representatives from the following agencies: local law enforcement, area school district, state's attorney's office, and court services (probation). The chairman may appoint additional members to the committee as deemed appropriate to accomplish the goals of this program, including, but not limited to, representatives from the juvenile detention center, mental health, the Illinois Department of Children and Family Services, and community representatives at large.

(c) The SHOCAP committee shall adopt, by a majority of the members:

(1) criteria that will identify those who qualify as a serious habitual juvenile offender; and

(2) a written interagency information sharing agreement to be signed by the chief executive officer of each of the agencies represented on the committee. The interagency information sharing agreement shall include a provision that requires that all records pertaining to a serious habitual offender (SHO) shall be confidential. Disclosure of information may be made to other staff from member agencies as authorized by the SHOCAP committee for the furtherance of case management and tracking of the SHO. Staff from the member agencies who receive this information shall be governed by the confidentiality provisions of this Act. The staff from the member agencies who will qualify to have access to the SHOCAP information must be limited to those individuals who provide direct services to the SHO or who provide supervision of the SHO.

(d) The Chief Juvenile Circuit Judge, or the Chief Circuit Judge, or his designee, may issue a comprehensive information sharing court order. The court order shall allow agencies who are represented on the SHOCAP committee and whose chief executive officer has signed the interagency information sharing agreement to provide and disclose information to the SHOCAP committee. The sharing of information will ensure the coordination and cooperation of all agencies represented in providing case management and enhancing the effectiveness of the SHOCAP efforts.

(e) Any person or agency who is participating in good faith in the sharing of SHOCAP information under this Act shall have immunity from any liability, civil, criminal, or otherwise, that might result by reason of the type of information exchanged. For the purpose of any proceedings, civil or criminal, the good faith of any person or agency permitted to share SHOCAP information under this Act shall be presumed.

(f) All reports concerning SHOCAP clients made available to members of the SHOCAP committee and all records generated from these reports shall be confidential and shall not be disclosed, except as specifically authorized by this Act or other applicable law. It is a Class A misdemeanor to permit, assist, or encourage the unauthorized release of any information contained in SHOCAP reports or records.

## Florida

### *FLORIDA STATUTES*

TITLE V JUDICIAL BRANCH
CHAPTER 39 PROCEEDINGS
RELATING TO JUVENILES
PART II DELINQUENCY CASES
Fla. Stat. @ 39.045 (1995)

**39.045 Oaths; records; confidential information.**

(1) Authorized agents of the Department of Juvenile Justice may administer oaths and affirmations.

(2) The clerk of the court shall make and keep records of all cases brought before it pursuant to this part. The court shall preserve the records pertaining to a child charged with committing a delinquent act or violation of law until the child reaches 24 years of age or reaches 26 years of age if he or she is a serious or habitual delinquent child, until 5 years after the last entry was made, or until 3 years after the death of the child, whichever is earlier, and may then destroy them, except that records made of traffic offenses in which there is no allegation of delinquency may be destroyed as soon as this can be reasonably accomplished. The court shall make official records of all petitions and orders filed in a case arising pursuant to this part and of any other pleadings, certificates, proofs of publication, summonses, warrants, and writs that are filed pursuant to the case.

(3) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. 110.1127, 393.0655, 394.457, 397.451, n1 402.305(1), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements

for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

(4) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in subsection (9), official records required by this part are not open to inspection by the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents, guardians, or legal custodians of the child and their attorneys, law enforcement agencies, the Department of Juvenile Justice and its designees, the Parole Commission, and the Department of Corrections shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.

(5) Except as provided in subsections (3) and (8), all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department of Juvenile Justice, the Parole Commission, the Juvenile Justice Advisory Board, the Department of Corrections, the district juvenile justice boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, the Juvenile Justice Advisory Board, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this part to receive that information, or upon order of the court.

Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

(6) All orders of the court entered pursuant to this part must be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

(7) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(a) Orders transferring a child for trial as an adult are admissible in evidence in the court in which he or she is tried, but create no presumption as to the guilt of the child; nor may such orders be read to, or commented upon in the presence of, the jury in any trial.

(b) Orders binding an adult over for trial on a criminal charge, made by the judge as a committing magistrate, are admissible in evidence in the court to which the adult is bound over.

(c) Records of proceedings under this part forming a part of the record on appeal must be used in the appellate court in the manner provided in s. 39.069(4).

(d) Records are admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury, to the extent such records are necessary to prove the charge.

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 39.076, 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, and 409.176, and for proof in a chapter 120 proceeding pursuant to ss. 415.1075 and n2 415.504.

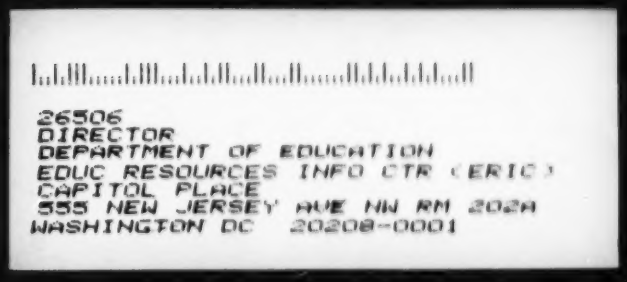
(8) (a) Records regarding children are not open to inspection by the public. Such records may be inspected only upon order of the Secretary of Juvenile Justice or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper. The information in such records may be disclosed only to other employees of the Department of Juvenile Justice who have a need therefor in order to perform their official duty; to other persons as authorized by rule of the Department of Juvenile Justice; and, upon request, to the Juvenile Justice Advisory Board and the Department of Corrections. The secretary or his or her authorized agent may permit properly qualified persons to inspect and make abstracts from records for statistical purposes under whatever conditions upon their use and disposition the secretary or his or her authorized agent deems proper, provided adequate assurances are given that children's names and other identifying information will not be disclosed by the applicant.

(b) The destruction of records pertaining to children committed to or supervised by the Department of Juvenile Justice pursuant to a court order, which records are retained until a child reaches the age of 24 years or until a serious or habitual delinquent child reaches the age of 26 years, shall be subject to chapter 943.

(9) Notwithstanding any other provisions of this part, a law enforcement agency may release for publication the name, photograph, and address of a child taken into custody if the child has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony, or the name, photograph, and address of any child who has been found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors.

(10) This part does not prohibit the release of the juvenile offense report by a law enforcement agency to the victim of the offense.

(11) Notwithstanding any other provision of this section, when a child of any age is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools that the child is alleged to have committed the delinquent act. Upon notification, the principal is authorized to begin disciplinary actions pursuant to s. 232.26. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the child. The principal must immediately notify the child's immediate classroom teachers.



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